

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:

DEER HUNTING AND HUNTER)	Administrative Cause
EDUCATION HOUSEKEEPING)	Number 08-189D
RULE)	(LSA Document #09-44(F))

**REPORT OF PUBLIC HEARING AND COMMENTS,
AND RECOMMENDATION REGARDING FINAL ADOPTION**

1. RULE PROCESSING

The Department, through its Division of Fish and Wildlife as part of the Natural Resources Commission’s Comprehensive Fish and Wildlife Rules Enhancement Project, proposed the rule amendments to 312 IAC 9-3-2 through 312 IAC 9-3-9 and 312 IAC 9-12. The primary purpose of the amendments is to reorder language for improved clarity, simplicity, and continuity; however, certain minimally significant amendments were made for statutory consistency and other reasons.

The amendment to 312 IAC 9-3-3 adds rifles with specified cartridges for the youth deer season and authorizes firearms and archery to be loaded and capable of firing outside lawful hunting hours. The amendment to 312 IAC 9-3-4 adds Warsaw as a designated urban deer zone and corrects the age for youth hunting from less than sixteen (16) years to less than eighteen (18) years of age. The proposed amendment to 312 IAC 9-3-8 would change the beginning date for hunting on national wildlife refuges and military reserves from November 1 to October 1 for hunting by firearms. District wildlife biologists will added to the list of authorities allowed to issue free permits to possess a deer killed by other means, such as a vehicle collision, by the amendments to 312 IAC 9-3-9.

AGENDA ITEM #12

The amendments to 312 IAC 9-12-2 and 312 IAC 9-12-3 address hunter education requirements with respect to individuals hunting under an apprentice license as authorized in IC 14-22-12-1.7.

The Natural Resources Commission (*NRC*) gave preliminary adoption to the rule package on January 13, 2009.

A “Notice of Intent” to adopt the proposed rule amendment was posted to the INDIANA REGISTER database website as 20090128-IR-312090060NIA on January 21, 2009. The notice identified Linnea Petercheff, Department of Natural Resources, Division of Fish and Wildlife, as the “small business regulatory coordinator” for purposes of Indiana Code § 4-22-2-28.1.

A fiscal analysis was prepared in association with the proposed rule package. The Department determined that the proposed amendments will impose no costs or requirements upon small businesses. The fiscal analyses reflect that the Department expects an approximate \$50,000.00 increase in revenue resulting from the new apprentice license.

The fiscal analyses, a copy of the proposed rule language and a copy of the posted Notice of Intent were submitted to the Office of Management and Budget on January 23, 2009. In a letter dated May 22, 2009 and received July 7, 2009, Christopher A. Ruhl, Director, Office of Management and Budget, recommended that the proposed rule amendments be approved.

The NRC Division of Hearings submitted the rule proposal to the Legislative Services Agency (*LSA*) along with the “Statement Concerning Rules Affecting Small Business” on July 13, 2009. The Notice of Public Hearing was submitted to LSA on July 15, 2009. The Notice of Public Hearing, along with the Economic Impact Statement and the text of the proposed rule was posted to the INDIANA REGISTER database website on July 22, 2009. Following receipt of an “Authorization to Proceed” from LSA on July 15, 2009,

the NRC Division of Hearings also caused a Notice of Public Hearing to be published by the Indianapolis Newspapers, a newspaper of general circulation in Marion County Indiana, on July 21, 2009 with respect to the public hearing conducted on August 13, 2009. In addition, the notice of the public hearing scheduled for August 13, 2009 and a summary of the proposed rule changes were published on the Commission's web-based electronic calendar.

2. REPORT OF PUBLIC HEARING AND COMMENTS

a) Public Hearing Comments

The public hearing was conducted as scheduled on August 13, 2009 at 5:00 p.m. at McCormicks Creek State Park, Canyon Inn, Oak Room, 451 McCormicks Creek Park Road, Spencer, Indiana. Hearing Officer, Sandra Jensen, was present along with Linnea Petercheff of the Department's Division of Fish and Wildlife and Major Steve Hunter of the Department's Division of Law Enforcement. Three members of the public appeared and one offered a comment, which is summarized here.

Jack Corpuz, Indianapolis, Indiana

Mr. Corpuz stated that he is in favor of the amendments across the board.

b) Comments Received Outside Public Hearing

The following written comments were received from members of the public outside of the public hearing held on August 13, 2009.

Mark Fink, Hendricks County, Indiana (email: January 29, 2009)

I fully support the changes as stated, especially the change to 312 IAC 9-3-3.

Jack Corpuz, Indianapolis, Indiana (email: January 29, 2009)

Fully support this rule upgrade

Clarence H. Williams, Warrick County, Indiana (email: January 30, 2009)

Good job on the clarification. This is something that has been needed for quite awhile. I approve of all changes, but would like to see a couple more changes:

1) Eliminate the sunset provision on the late season crossbow buck. I was heavily involved when this was originally discussed and I was assured (I still have the DNR emails) at that time that original sunset (two years ago) was not tied in with the OBR

sunset. The last Administrative Rules Process that sunset was put into place again right along with the OBR sunset. I would like to sit down with the NRC and explain this and see that this sunset is dropped. There is no reason why cross bowers can not take a buck in the late season as everyone else can.

2) As a long time bow hunter I would like to see crossbows treated as the archery equipment that they are and allow cross bowers to hunt in all seasons where the vertical archery equipment is allowed. Crossbows are proven to be great recruitment and hunter retention tools. At the time of dwindling hunter numbers and increasing a deer herd population crossbows will be of a great benefit to the state of Indiana.

Williams also wrote by email on March 27, 2009
Looks good. Thanks for the "housekeeping".

Paul Vice, Seymour, Indiana (email: January 30, 2009)

I believe ALL military/refuge deer hunting opportunities in Indiana should be timed concurrently with Indiana general deer hunting seasons. I bow hunt near Big Oaks NWR. The last two weekends of archery season sound like a war zone. By opening their firearms hunts during Indiana's early archery season, Big Oaks is taking opportunity from Indiana bow hunters...and disrupting the peaceful archery experience of neighboring bow hunters. Indiana has six weeks of firearms season...which is a lot compared to most Midwestern states. Big Oaks could and should run their fire arm hunts on concurrent firearms weekends. Your proposal will allow Big Oaks to start gun hunting on October 1st. Please reconsider.

Bryan Smith, Greene County, Indiana (email: February 4, 2009)

I feel the rule changes didn't go far enough and the following rule changes should be considered:

[1]The requirement that a person buy a separate license for each deer season is proving to be too costly for some young households and is causing irretrievable damage to the sport of deer hunting in the state. With the short season it is difficult for hunters with small children and a busy lifestyle to justify buying a "firearm" or "muzzleloader" license only to be able to hunt one maybe two times, especially coupled with the high cost. These would be hunters aren't purchasing licenses or hunting which will hurt everyone involved in the long run. If the state wishes to abolish hunting over the long run this is certainly one way accomplish that goal.

[2]It is a shame that rifle hunters in Indiana can't use classic midrange deer rounds such as 30/30 Winchester, .35 Remington or the 45/70. Personally I find it asinine that a person can crawl into a tree stand with a 30.06 pistol with a potential lethal range of 5-700 yards or farther but we can't use a rifle with the potential lethal range of 300 yards. The rifle allows the person another point of contact {the shoulder} the pistol doesn't provide for which makes it safer and easier to control. Presently I travel to Georgia at least once a year to hunt with a .35 Remington and this is money that otherwise would have been

spent here in the state. I feel the rule should be changed to allow any rifle with a bullet diameter larger than .357 and a certain exception for the 30/30 Winchester.

Greg Eley, Grant County, Indiana (email: February 11, 2009)

In favor of making Warsaw urban deer zone. I hunt in Warsaw area and this is desperately needed, as it is now you have to be a member of good old boys club to get permission to hunt in city limits.

Todd Adrian Wininger, Fort Wayne, Indiana (email: February 16, 2009)

I support the revisions detailed in LSA #09-44.

Charles David Krieger, Warsaw, Indiana (email: February 21, 2009)

I support having Warsaw designated as a urban deer zone. In the past the city hunt has been ran as a "good buddy hunt". The local individuals that were selected to hunt arguing over who would get the trophy deer. I was never interested in being involved in the "city hunt". The "city hunt" was a national embarrassment to the State of Indiana. The urban deer zone is the correct way to help regulate the deer population. It would also be helpful to raise the number of bonus antlerless deer bag permits. My brother lives in Scott County which has a 8 quota for bonus antlerless deer permits. Kosciusko County has excellent deer habitat. The city of Warsaw is surrounded by lakes, farm crops, woods and food plots.

Kurt Barhydt, South Bend, Indiana (email: March 3, 2009)

The rule change to allow youth hunters to purchase an apprentice license without a hunter's education class or permit should not be allowed. Youth hunters need to take the hunters Ed class first! All other proposed rule changes I support.

Mark Fink, Pittsboro, IN (email: July 16, 2009)

I support this group of changes; it is just common sense items to me. I especially appreciate the change to allow loaded firearms before & after legal hunting hours. This one rule, as it has been worded in the past, is probably violated more than most rules and not because someone purposefully does so but merely because it slips their mind. Thanks again for these changes.

Tom G. Leek, Indianapolis, IN (email: July 20, 2009)

I think the change to allow a loaded firearm before and after legal shooting hours make perfect sense. You are not allowed to shoot before or after legal hours but you will want to be ready to shoot at the first second it is legal in the morning. You also will not be afraid of a DNR officer waiting for you to come out of a tree with a loaded firearm after legal hours.

Leslie A Conrad, Marion, IN (email: July 20, 2009)

"Allows archery equipment and firearms to be loaded, or capable of being fired, before and after lawful shooting hours" – This is a bad idea, someone is going to be accidentally shot during non legal hours if this amendment is passed.

Rodlee Lancaster, Hamilton County, IN (email: July 20, 2009)

I would like to comment on the ability to load and fire a firearm or bow outside of the legal hunting period and the mandatory requirement of hunter's safety courses.

First, as an avid hunter that has taken game at dusk and tracking it in the dark, the only reason why I would entertain the thought of having a weapon ready to be discharged is for self protection. Mostly due to the possibility of coyotes or wild dogs being present on the same hunting ground. I don't see any other reason why a hunter would need to carry a loaded bow or gun outside the legal hunting period.

I feel that no hunting firearm or bow should NOT be loaded and fired outside the legal shooting time. It leaves too big of a loophole to take legal game outside of the official hunting time period. Not all hunters abide by ethical hunting rules and would eventually hurt the image of those who do. Understanding that having a loaded firearm outside of the legal time period is rational, the state has provided reasonable provisions to protect ones self by obtaining a personal firearm for protection. That is the one reason why I have obtained a personal firearms permit so that I would be prepared in the event that I would have to engage the dogs in the act of self preservation. I have yet to do so but have on occasion come face to face with them and sometimes it results in me letting them feed on the game I hunted, as I was not in personal danger. Although upset and tempted to kill the offending animal(s) I let them do what dogs do despite the patience and man hours had I put into the hunt, it's just not a justified reason for me to discharge my weapon.

To this regard, hunter safety courses should be made mandatory so that ethical hunting practices can be introduced and enforced, provided that the education course is updated to include the time restrictions and make it a mandatory question in order to pass the course. It closes the un-informed personal perspective of the "I didn't know..." syndrome and makes the hunter more conscious of the laws governing the hunt. It would make enforcing the law much easier for our DNR agents and promote a healthier public image for us hunters that abide by the rules and hunt ethically.

William S. Hayes, Clay, IN (email: July 20, 2009)

I appreciate the efforts being put in to improve the deer herd in Indiana. The buck to doe ratio is getting closer to 50/50. Seeing more bucks getting to the 2.5 age and older. Keep up the good work, and all proposals that are on the table I am in favor of. Thank you for letting the hunter be heard.

Ray Squibb, Starke, IN (email: July 20, 2009)

I am in favor of any of the proposals which increase the deer harvest. Traveling in Starke, Marshall and Pulaski counties, I have had several "near misses with deer, with my car; and have had one collision.

Randy Hazen, Plymouth, IN (email: July 20, 2009)

Agree with change

Brian Allison, Anderson, IN (email: July 20, 2009)

I agree with the proposed rule changes to allow the carrying/possession of both archery and firearms during the firearms and muzzle loading season. Such a rule change would be very beneficial for the taking of does one curtail DNR properties during firearm season when currently only one type of weapon can be carried/possessed.

Susan M Graff, Lake, IN (email: July 21, 2009)

I wish they would ban hunting.

Donald Brian Kays, Morgan, IN www.huntfishindiana.com (email: July 21, 2009)

Comments: Allows archery equipment and firearms to be loaded, or capable of being fired, before and after lawful shooting hours. This proposed rule is excellent for the educated hunter due to the increased number of predators. This rule would make hunters feel more safe when entering the woods. Allows legal archery equipment and a firearm to be possessed during the firearms season, as long as the person possesses both an archery and a firearm license. Allows legal archery equipment and a muzzleloader to be possessed during the muzzleloader season, as long as the person possesses both an archery and a muzzleloader license. Clarifies licensing and tagging requirements to make sure the person who killed the deer puts his/her name on the tag and that the deer is recorded at the check station in the name of the person who killed the deer.

Russell D McCoy, La Porte, IN (email: July 25, 2009)

I simply agree with the proposed changes.

Richard Fites, Marshall, IN (email: July 26, 2009)

I don't believe the loaded weapon before or after shooting hours should be passed. What is the reason behind wanting a weapon loaded? Tome it's unsafe. On the rifle use for youth, I don't believe this should pass. That rifle is not a legal weapon during regular season so why allow it just for the youth season?

Gerald J. McClure, Shelby, IN (email: July 26, 2009)

Yes I think the youth hunting age should be raised to less than 18years old, and the youth hunter should be allowed to harvest a deer of either sex

Forrest Fleming, Palmyra, IN (email: July 29, 2009)

I oppose the rule change that would not allow hunters to use Short Barreled Rifles for deer hunting. An SBR is not a handgun despite the odd wording in Indiana's definition of a handgun. The rule that disallows rifles that have been converted to "handguns"-which can only be SBRs if legal-rules out a large number of people who wish to hunt with these types of weapons. I do not see the problem allowing SBRs so long as they are legally owned and the rifle cartridge meets the guidelines set forth by the DNR for legal use. It is Indiana's queer inclusion of SBRs as handguns that is causing the problem, not the use itself of SBRs in an of itself. All that would need to be done to allow SBRs using rifle cartridges as already established under DNR rules, is to specifically allow SBRs so long as they meet those cartridge requirements.

Brian Allison, Anderson, IN (email: July 20, 2009)

I agree with the proposed rule changes to allow the carrying/possession of both archery and firearms during the firearms and muzzleloading season. Such a rule change would be very beneficial for the taking of does one curtail DNR properties during firearm season when currently only one type of weapon can be carried/possessed.

James E. Schoelkopf, Plano, TX (email: August 6, 2009)

I lived in Indiana for 17 years and my boys still live there. I have returned to Indiana and paid the out of state fee for a Buck almost every year and that has been for the last 16 years. You talk about reducing the doe herd but you want an out of state hunter to pay the same for a second deer license for doe for \$150.00 after I buy a buck license. I think this is ridiculous. I would buy an extra doe license if it were \$25.00 or \$30.00 but I will never pay \$150.00 for the doe license just to put food in my freezer. My sons and I along with our other hunting friends we hunt with in Indiana think the out of state cost for a second doe license is way out of order. I really hope I hear back from you.

Jason Pearson, Borden, IN (email: August 8, 2009)

*If you have a license for archery and firearms, muzzleloader. You should be able to carry all weapons to use for hunting.

* For safety reasons, should not be able to have a cap on your muzzleloader, a shell in the shooting chamber or an arrow in the nock. I do not see a reason why a gun cannot be loaded as long as it is not in away to be fired, unless it is chambered into a shooting chamber.

***I know it is not on the agenda, but the following should be brought up and talked about at a forum for rule change.

1. Crossbows should be allowed during all archery. It will increase revenue for the state and also allow for more people to get involved in the sport.

2. Lifetime hunting and fishing license should be brought back. The cost of the license are making many of us to cut back, since they rise every year.

3. If you want to really reduce the number of the deer herd and help grow more trophy bucks, then make it even more easy to take does. The cost of a doe license to start at \$25 is too much, even if the 2nd and other ones are \$15. Many more doe tags would be bought and more does taken if all doe tags were \$10. This should apply to even out of state hunters. *Also I would like the Wisconsin rule of taking doe before you take a buck. But only if the doe tag was at a more reasonable price.

Rev. Dr. Gary L Hall, Blackford, IN (email: August 8, 2009)

i like the housekeeping rules to allow youth to hunt with more firearms that would help them harvest a deer and become more excited about hunting

Bradley K. Jenshak, Monroe, IN (email: August 11, 2009)

(Proposal 9-3-8) I do not support the proposal to allow firearm use on wildlife or military refuges during the month of October. October is reserved for archery as it a much more challenging way of taking deer and bow hunters do not need firearm season putting the deer herd into high alert and nocturnal habits. If the herd is too large other measures should be taken to manage it at acceptable levels.

Dave Jenkins, Bloomington, IN (email: August 12, 2009)

I do not want gun hunts to start 1 Oct on military reserves. I would like to leave it 1 Nov.

Stuart Grell, Fountain County, IN (email: August 14, 2009)

I agree with all of the proposed changes.

c) Response by the Department of Natural Resources

The Department of Natural Resources offered the following response to the public comments.

DNR Response

Equipment loaded outside shooting hours

The DNR believes that there is no longer a need to require archery equipment or firearms to be unloaded or incapable of being fired outside lawful hunting hours. When this requirement originated, the hunting hours for deer were only from sunrise to sunset. Since that time, the hunting hours have been expanded to ½ hour before sunrise to ½ hours after sunset, and deer hunters who are in the field prior to legal hunting hours need to be able to load their firearm without making any noise and without movement that would scare a deer away. The requirement that firearms be unloaded is inconsistent with rules for hunting all other species. Those who hunt wild turkeys, waterfowl, squirrels, cottontail rabbits, and furbearers can have their firearms loaded at any time of day. Furthermore, the DNR already allows a person to carry a handgun at any time of day, loaded or unloaded, during all of the deer seasons under a personal protection permit. Additionally, the restriction of not allowing a person to carry a firearm can also be considered a violation of a person's Second Amendment rights, making enforcement minimal. Some courts will not even take such a case. Lastly, the majority of deer hunting accidents do not take place as a result of shooting outside the hunting hours; the accidents take place primarily when hunters climb in and out of tree blinds or climb over fences.

Military areas and other federal properties

The DNR has been asked by property managers of federal properties such as Camp Atterbury Joint Maneuver Training Center and Big Oaks National Wildlife Refuge to be able to allow deer hunting with a firearm on their properties prior to November 1. These property managers, among others, need the maximum flexibility to manage the deer herd on their property with the most efficient methods available. Furthermore, military areas may need to coordinate hunting opportunities and military training. Therefore, the DNR believes that these federal properties should have the ability to have a firearms season or youth hunting season (that includes firearms) prior to the current starting date of November 1 to more effectively manage the deer population on their property.

Hunter Education

The changes in 312 IAC 9-12 simply comply with state law by making it legal for a license retailer to issue an apprentice license to a person who has met the requirements in state statute for an apprentice hunting license. In 2008, the Indiana General Assembly

passed legislation to allow the issuance of an apprentice hunting license to an individual who is hunting with an individual who is at least 18 years of age, is in close proximity to the apprentice hunter and properly licensed (unless exempt). Furthermore, an individual can purchase no more than 3 apprentice hunting license in his/her lifetime. Because state statute in IC 14-22-12-1.7 authorizes the DNR to issue apprentice hunting licenses to individuals who have not had hunter education, these rule changes are needed to comply with state law.

Youth Season

The rifles that are authorized in this rule package for youth hunters in 312 IAC 9-3-3(a) during the youth deer season are the same as authorized for all other deer hunters during the regular deer firearms season in 312 IAC 9-3-3(d). They are exactly the same requirements.

The age of youth hunters that can participate in the youth deer hunting season is being increased to those under the age of 18, instead of 16, in order to be consistent with state statute in IC 14-22-12-1. The resident youth consolidated hunting license and the nonresident youth hunting licenses authorized in IC 14-22-12-1 are available for youth under the age of 18 at the time the youth purchases the license. Furthermore, youth hunters under the age of 18 can also participate in the free youth hunting days authorized in IC 14-22-11-18, and youth under the age of 18 are also now exempt from needing a fishing license to fish in public waters per IC 14-22-11-8.

Short-barreled rifles

The proposed rule change governing handguns makes it clear that a short-barreled rifle can only be used to fire a rifle cartridge that meets the specifications in the rule for rifles. A short-barreled rifle must fire a cartridge that meets the rifle cartridge requirements, not the handgun requirements. Even with this rule change, a short-barreled rifle can still be used during the deer firearms season in accordance with federal law with a cartridge that has a bullet at least .357 inches in diameter, has a minimum case length of 1.16 inches, and a maximum case length of 1.625 inches. The DNR considers a short-barreled rifle to be a rifle, as defined by federal law, not a handgun.

3. RECOMMENDATION

This rule proposal is the first of three rule amendment proposals that resulted from Stage 2 of the Commission's Comprehensive Fish and Wildlife Rules Enhancement Project (*"the Project"*). The purpose of Stage 2 of the Project is to enhance clarity and enforceability of the rules through the reordering and revising of the rule language. The rule amendment proposals developed through Stage 2 of the Project are not intended to make significant substantive changes. However, certain minor substantive changes were brought forward in this package along with two substantive amendments that are

necessary to correct potential inconsistencies between existing rules and the authorizing statutes.

In amending the Fish and Wildlife rules relating to deer hunting and hunter education requirements, 312 IAC 9-3-2.5, 312 IAC 9-3-5, 312 IAC 9-3-6 and 312 IAC 9-3-7 will be repealed. Most of the existing provisions contained in these rule have been incorporated into the deer hunting rules that are being retained.

One of the minor substantive amendments will make permanent a correction to 312 IAC 9-3-3 that was previously made by temporary rule. This amendment will allow a youth to hunt using rifles with specified cartridges. Another substantive amendment to 312 IAC 9-3-3 will allow a hunter to possess a loaded firearm or archery equipment outside of lawful hunting hours. Warsaw will be added as an urban deer zone through a minor substantive amendment to 312-9-3-4 and district wildlife biologists, property managers and assistant property managers will be added as Department staff authorized to issue free permits to possess a deer killed by other means.

The substantive amendments made to correct apparent inconsistencies involve amending 312 IAC 9-3-4 to increase the youth age from sixteen (16) to eighteen (18) and amendments to 312 IAC 9-12-2 and 312 IAC 9-12-3 to clarify that an individual hunting under an apprentice license is exempt from the hunter education requirements. A person hunting under an apprentice license was already exempt from hunter education requirements by virtue of IC 14-22-12-1.7(d) and IC 14-22-12-1(a)(24) already specifies that a youth is an individual under the age of eighteen (18). Certain individuals expressed concern about these amendments; however, the Commission cannot impose requirements that are contrary to statutory authorization. Therefore, these proposed amendments are necessary to avoid any inconsistency or appearance of inconsistency with statutory provisions.

One comment notes that a youth should not be allowed to take deer with a rifle because “the rifle is not a legal weapon during regular season.” Rifles using certain cartridges

were authorized for use during the regular firearms season in 2007. Presently, a temporary rule authorizes a youth to use those same rifles and cartridges to hunt deer during the youth season. The amendment simply makes permanent the authorizations that are presently in place by virtue of the temporary rule.

Some individuals who offered comments with respect to this rule proposal expressed their belief that additional substantive amendments should be made to Indiana's deer hunting rules. This rule amendment proposal is essentially for the purpose of reordering and revising language for the purpose of improving clarity and enforceability. Through Stage 3 of the Project the Natural Resources Advisory Council is presently considering suggested substantive changes that were submitted through the appropriate on-line form that was available until April 1, 2009. For this reason, the suggesting substantive amendments brought forward in conjunction with comments to this rule proposal have not been considered in the report.

The amendment to 312 IAC 9-3-3 that would allow an individual to possess a loaded firearm or archery equipment outside of lawful hunting hours is generally favored by those who offered comments. There were a very few individuals who expressed the opinion that having a loaded weapon in the field outside of shooting hours was unsafe. The Department observes in its response that deer season is the only hunting season in which the hunter is prohibited from carrying a loaded firearm outside of shooting hours and only for turkey hunting is a hunter prohibited from carrying a bow with an arrow nocked. Furthermore, existing administrative rules allow any hunter who possesses a valid handgun license to carry a loaded handgun at any time while hunting. For these and other reasons stated in the Department's response as well as a review of the public comments, the hearing officer is convinced that the present regulation is unnecessary and that this amendment is generally not controversial. Therefore, despite the substantive nature of this amendment the hearing officer supports the final adoption of this substantive amendment as part of this rule amendment package.

One of the substantive amendments included within this rule amendment package involves the amendment to 312 IAC 9-3-8(b) to allow hunting with firearms on military reserves and wildlife refuges to begin on October 1, 2009. This amendment was included within this clarification package because it appeared to be insignificant in nature and minor in scope. The amendment would allow property managers at wildlife refuges and military reserves the flexibility to allow firearms hunting through draw hunts as early as October 1. Through the public comment period a few negative comments were received with respect to this amendment. These comments express concern that allowing hunting with firearms on wildlife refuges and military reserves will be detrimental to archery hunting on properties outside, but in the vicinity of, these refuges and reserves. Bradley K. Jenshak of Monroe County observes that “October is reserved for archery as it a much more challenging way of taking deer and bow hunters do not need firearm season putting the deer herd into high alert and nocturnal habits. If the herd is too large other measures should be taken to manage it at acceptable levels.” In response, the Department notes that federal property managers have requested this additional flexibility in order to control deer herds and populations. Furthermore, the Department observes that “military areas may need to coordinate hunting opportunities and military training.”

The hearing officer acknowledges that the negative comments received with respect to the proposed amendments to 312 IAC 9-3-8(b) are not extensive but questions whether the lack of public input on this issue may be related to the inclusion of this amendment into an essentially non-substantive amendment package. The hearing officer observes that the concern raised by the public comments was not anticipated. The hearing officer also notes her understanding of and commends the Department’s intent to coordinate activities with federal property managers by allowing the additional flexibility to control deer herds and facilitate military training schedules. However, the public comments, while very limited in number, appear to raise a valid concern. For these reasons the hearing officer defers to the determination of the Commission as to final adoption of the proposed amendments to 312 IAC 9-3-8(b).

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Overall, the public support for this rule amendment package has been favorable. The hearing officer recommends that the Commission grant final adoption to the rule amendment package with the exception of the amendments proposed to 312 IAC 9-3-8(b) that would allow for firearms hunting on military reserves and wildlife refuges as early as October 1, to which the hearing officer defers to the determination of the Commission.

The rule as published, which includes the amendment to 312 IAC 9-3-8(b), is attached as Exhibit A.

Should the Commission decide not to grant final adoption to 312 IAC 9-3-8(b) to allow firearms hunting of deer on military reserves and wildlife refuges to begin on October 1, the hearing officer would propose that the remainder of the amendments to 312 IAC 9-3-8 be granted final adoption. For the Commission's assistance, a revision to 312 IAC 9-3-8(b) that would retain the original dates for archery hunting from October 1 through December 31 and firearms hunting from November 1 through December 31 on wildlife refuges and military reserves is offered as Exhibit B.

Dated: August 19, 2009

Sandra L. Jensen
Hearing Officer

“Exhibit A”

TITLE 312 NATURAL RESOURCES COMMISSION

Final Rule

LSA Document #09-44(F)

DIGEST

Amends 312 IAC 9-3-2, concerning general requirements and licenses for hunting deer, to reorder language for improved clarity, simplicity, and continuity. Amends 312 IAC 9-3-3 by adding rifles with certain cartridges for the youth special deer season and authorizing firearms and archery equipment to be capable of being loaded or fired outside lawful shooting hours. Amends 312 IAC 9-3-4 by adding Warsaw as a designated urban deer zone and for statutory consistency corrects the youth age from less than 16 years of age to less than 18 years of age. Amends 312 IAC 9-3-8 to allow hunting on military reserves and national wildlife refuges to begin on October 1 instead of November 1 and to allow the taking of deer with firearms. Amends 312 IAC 9-3-9 to add district wildlife biologists, property managers, and assistant property managers as individuals authorized to issue free permits to possess a deer killed by other means, such as a collision. Amends 312 IAC 9-12-2 and 312 IAC 9-12-3 to address hunter education requirements with respect to individuals purchasing apprentice hunting licenses authorized by IC 14-22-12-1.7. Repeals 312 IAC 9-3-2.5, 312 IAC 9-3-5, 312 IAC 9-3-6, and 312 IAC 9-3-7. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

312 IAC 9-3-2; 312 IAC 9-3-2.5; 312 IAC 9-3-3; 312 IAC 9-3-4; 312 IAC 9-3-5; 312 IAC 9-3-6; 312 IAC 9-3-7; 312 IAC 9-3-8; 312 IAC 9-3-9; 312 IAC 9-12-2; 312 IAC 9-12-3

SECTION 1. 312 IAC 9-3-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-2 General requirements and licenses for hunting deer

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22; IC 35-47-2

Sec. 2. (a) This section and sections 3 through 10 of this rule govern the:

- (1) hunting;
 - (2) transportation; and
 - (3) disposal;
- of deer.

(b) Species of deer other than white-tailed deer (*Odocoileus virginianus*) are exempted from the following:

- (1) This section.

(2) Sections 3 through 9 of this rule.

~~A person~~ **An individual** who claims the exemption provided under this subsection must prove the deer is other than a white-tailed deer.

(c) The licenses identified ~~by sections 3 through 8 of in this rule~~ **section** are nonexclusive. An individual may apply for one (1) or more of these licenses.

~~(d) Before September 1, 2012, a person must not take more than one (1) antlered deer during the seasons for an annual deer license.~~

~~(e) The use or aid of:~~

~~(1) a food product that is transported and placed for consumption;~~

~~(2) salt;~~

~~(3) mineral blocks;~~

~~(4) prepared solid or liquid intended for ingestion (herein called bait);~~

~~(5) snares;~~

~~(6) dogs; or~~

~~(7) other domesticated animals;~~

~~to take deer is prohibited. A person must not hunt by the aid of bait or on or over a baited area. An area is considered baited for ten (10) days after the removal of the bait or the baited soil. Hunting an orchard or another area, which may be attractive to deer as the result of normal agricultural activity, is not prohibited. The use of manufactured scents and lures or similar chemical or natural attractants is not prohibited.~~

~~(f) The hunting of white-tailed deer possessed under the authority of a game breeder license under 312 IAC 9-10-4 is prohibited.~~

~~(g)~~ **(d)** Except as provided under IC 14-22-11-1 and IC 14-22-11-11, ~~a person an~~ **individual** must not hunt **deer**:

(1) ~~deer~~ unless the ~~person~~ **individual** possesses a completed and signed license **authorized under this section** bearing the ~~person's~~ **individual's** name; or

(2) with a deer license issued to another ~~person~~ **individual**.

~~(h) A piece of paper must, immediately upon taking a deer, state the following:~~

~~(1) The name and address of the person.~~

~~(2) The license number (if applicable).~~

~~(3) The sex of the deer.~~

~~(4) The month and day the deer was taken.~~

~~A deer leg must be tagged with the piece of paper before leaving the field. A deer that is in the field is not required to be tagged if the person who takes the deer maintains immediate custody of, and constant visual contact with, the deer carcass.~~

(e) A youth hunter may take a deer during the youth deer season established in **section 4(b)** of this rule only if:

(1) issued a license to hunt deer with:

- (A) a resident youth consolidated hunting license under IC 14-22-11-10(b) or IC 14-22-12-1(a)(24);
- (B) a lifetime comprehensive hunting license under IC 14-22-12-7(a)(4);
- (C) a lifetime comprehensive hunting and fishing license under IC 14-22-12-7(a)(5); or
- (D) an apprentice resident youth consolidated hunting license under IC 14-22-12-1.7; or
- (2) hunting deer without a license under IC 14-22-11-1 and 312 IAC 9-2-14.

(f) An individual may take a deer with a bow and arrow during the archery season established in section 4(e) of this rule only if:

- (1) issued a license to hunt deer by bow and arrows with:
 - (A) a resident deer archery license under IC 14-22-11-10(a) or IC 14-22-12-1(a)(14);
 - (B) a nonresident deer archery license under IC 14-22-12-1(a)(17);
 - (C) a youth consolidated hunting license under IC 14-22-11-10(b) or IC 14-22-12-1(a)(24);
 - (D) a lifetime comprehensive hunting license under IC 14-22-12-7(a)(4);
 - (E) a lifetime comprehensive hunting and fishing license under IC 14-22-12-7(a)(5); or
 - (F) an apprentice license of the types identified in clauses (A) through (C) under IC 14-22-12-1.7; or
- (2) hunting without a license under IC 14-22-11-1 and 312 IAC 9-2-14.

(g) An individual may take a deer with a firearm during the firearms season established in section 4(h) of this rule only if:

- (1) issued a license to hunt deer by firearms with:
 - (A) a resident deer firearms license under IC 14-22-11-10(a) or IC 14-22-12-1(a)(12);
 - (B) a nonresident deer firearms license under IC 14-22-12-1(a)(15);
 - (C) a resident youth consolidated hunting license under IC 14-22-11-10(b) or IC 14-22-12-1(a)(24);
 - (D) a lifetime comprehensive hunting license under IC 14-22-12-7(a)(4);
 - (E) a lifetime comprehensive hunting and fishing license under IC 14-22-12-7(a)(5); or
 - (F) an apprentice license of the types identified in clauses (A) through (C) under IC 14-22-12-1; or
- (2) hunting deer without a license under IC 14-22-11-1 and 312 IAC 9-2-14.

(h) An individual may take a deer with a muzzleloader during the muzzleloader season established in section 4(i) of this rule only if:

- (1) issued a license to hunt deer by a muzzleloader with:
 - (A) a resident deer muzzleloader license under IC 14-22-11-10(a) or IC 14-22-12-1(a)(13);
 - (B) a nonresident deer muzzleloader license under IC 14-22-12-1(a)(16);

- (C) a resident youth consolidated hunting license under IC 14-22-11-10(b) or IC 14-22-12-1(a)(24);
- (D) a lifetime comprehensive hunting license under IC 14-22-12-7(a)(4);
- (E) a lifetime comprehensive hunting and fishing license under IC 14-22-12-7(a)(5); or
- (F) an apprentice license of the types identified in clauses (A) through (C) under IC 14-22-12-1; or
- (2) hunting deer without a license under IC 14-22-11-1 and 312 IAC 9-2-14.

(i) An individual may take a deer during the urban deer season established in section 4(f) of this rule only if:

(1) issued a license to hunt deer with:

- (A) a resident deer archery license under IC 14-22-11-10(a) or IC 14-22-12-1(a)(14);
- (B) a nonresident deer archery license under IC 14-22-12-1(a)(17);
- (C) a resident extra deer license under IC 14-22-12-1(a)(18);
- (D) a nonresident extra deer license under IC 14-22-12-1(a)(19);
- (E) a resident youth consolidated hunting license under IC 14-22-11-10(b) or IC 14-22-12-1(a)(24);
- (F) an apprentice license of the types identified in clauses (A) through (E) under IC 14-22-12-1;
- (G) a lifetime comprehensive hunting license under IC 14-22-12-7(a)(4); or
- (H) a lifetime comprehensive hunting and fishing license under IC 14-22-12-7(a)(5); or
- (2) hunting deer without a license under IC 14-22-11-1 and 312 IAC 9-2-14.

(j) An individual may take an antlerless deer in a designated county, by authority of an extra deer bonus antlerless license, only as authorized under section 4(j) of this rule.

(k) An individual must, immediately upon taking a deer, attach a piece of paper to the deer that states the following:

- (1) The name and address of the individual who took the deer.
- (2) The license number (if applicable) of the individual who took the deer.
- (3) The sex of the deer.
- (4) The month and day the deer was taken.

A deer must be tagged with the piece of paper before leaving the field. A deer that is in the field is not required to be tagged if the individual who takes the deer maintains immediate custody of, and constant visual contact with, the deer carcass.

~~(i) A person~~ (l) An individual who takes a deer must cause delivery of the deer carcass to an official checking station for registration **in the name of the individual who took the deer** on the occurrence of the earlier of the following:

- (1) Within forty-eight (48) hours of the taking of the deer.
- (2) Before the deer is removed from this state.

The ~~person~~ **individual** who delivers the deer carcass to an official checking station for registration must provide **true and** accurate information for the check station logs, **including the name and license number of the individual who took the deer and the date the deer was taken.**

~~(j) After the checking station operator records the permanent seal number on the log and collects the piece of paper described in subsection (h), the operator shall give the seal to the person. The person must immediately affix the seal:~~

- ~~(1) between a tendon and bone;~~
- ~~(2) through a section of skin or flesh; or~~
- ~~(3) around a branched antler;~~

~~to prevent its removal (without cutting the seal or the body part to which it is affixed). The seal must be maintained until processing of the deer begins.~~

~~(k) The checking station operator must do the following:~~

- ~~(1) Accurately and legibly complete all forms provided by the department.~~
- ~~(2) Make those forms available to department personnel upon request.~~

~~(l) A person must not erect, place, or hunt from a permanent tree blind on state-owned lands. A tree blind placed on:~~

- ~~(1) state-owned or state-leased lands;~~
- ~~(2) U.S. Forest Service lands;~~
- ~~(3) the Muscatatuck National Wildlife Refuge; or~~
- ~~(4) the Big Oaks National Wildlife Refuge;~~

~~must be portable and may be left overnight only between September 1 and January 10. A fastener used in conjunction with a tree blind and a tree or pole climber that penetrates a tree more than one-half (1/2) inch is prohibited. Each portable tree blind must be legibly marked with the name, address, and telephone number of the owner of the tree blind.~~

~~(m) The head of a deer must remain attached to the carcass until the tag is attached and locked at the deer checking station.~~

~~(n) The use of infrared sensors to locate or take deer is prohibited. A person must not hunt or retrieve deer with the aid of an infrared detector.~~

(n) After the checking station operator records the permanent seal number on the log and collects the piece of paper described in subsection (k), the operator shall give the seal to the individual. The individual must immediately affix the seal:

- (1) between a tendon and bone;**
- (2) through a section of skin or flesh; or**
- (3) around a branched antler;**

to prevent its removal (without cutting the seal or the body part to which it is affixed). The seal must be maintained until processing of the deer begins.

(o) The checking station operator must do the following:

- (1) Accurately and legibly complete all forms provided by the department.**

(2) Make those forms available to department personnel upon request.

(p) An individual must not hunt deer except from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

(q) An individual must not hunt deer unless that individual wears hunter orange. However, this subsection does not apply:

(1) before the commencement of the firearms season set forth in section 4(e) of this rule; and

(2) after the muzzleloading gun season set forth in section 4(f) of this rule.

(r) Before September 1, 2012, an individual must not take more than one (1) antlered deer during the seasons for an annual deer license.

(s) An individual must not hunt deer with the use or aid of:

(1) bait, which includes:

(A) a food that is transported and placed for consumption, including, but not limited to, piles of corn and apples placed in the field;

(B) a prepared solid or liquid that is manufactured and intended for consumption by livestock or wild deer, including, but not limited to, commercial baits and food supplements;

(C) salt; or

(D) mineral supplements;

(2) snares;

(3) dogs; or

(4) other domesticated animals.

The use of manufactured scents and lures or similar chemical or natural attractants is not prohibited.

(t) An area is considered baited for ten (10) days after the removal of the bait or the baited soil. Hunting an area, such as an orchard, which may be attractive to deer as the result of normal agricultural activity, is not prohibited.

~~(e)~~ **(u) Notwithstanding subsection ~~(e)~~, (s), an individual may use dogs** ~~may be used~~ only while on a leash to track or trail wounded deer.

~~(p)~~ **(v) Notwithstanding subsection ~~(e)~~, (s), an individual may use:**

(1) donkeys;

(2) mules; and

(3) horses;

~~may be used~~ **for transportation to and from a hunt but may not be used while hunting.**

~~(q) The possession of an electronic deer call is prohibited. A person must not hunt deer with the aid of an electronic deer call.~~

(w) An individual must not hunt white-tailed deer possessed under the authority of a game breeder license under 312 IAC 9-10-4.

(x) An individual may possess a handgun in accordance with IC 35-47 while hunting deer if the individual:

(1) has a valid unlimited license to carry a handgun issued under IC 35-47-2-3;

(2) has a valid unlimited license to carry a handgun recognized under IC 35-47-2-21(b); or

(3) is not required to possess a license to carry a handgun under IC 35-47-2-2.

(Natural Resources Commission; 312 IAC 9-3-2; filed May 12, 1997, 10:00 a.m.: 20 IR 2702; filed Dec 26, 2001, 2:40 p.m.: 25 IR 1528; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 536; filed May 12, 2006, 10:38 a.m.: 29 IR 3344; filed Jun 23, 2006, 2:24 p.m.: 20060719-IR-312050214FRA; errata filed Jul 21, 2006, 1:56 p.m.: 20060802-IR-312050214ACA; filed Jul 10, 2007, 2:09 p.m.: 20070808-IR-312060572FRA; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)

SECTION 2. 312 IAC 9-3-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-3 Equipment for deer hunting

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22-11-1; IC 14-22-11-10; IC 14-22-12-1; IC 14-22-12-7; IC 35-47-2

Sec. 3. ~~(a) This section is supplemental to section 2 of this rule and governs the activities of an individual who is:~~

~~(1) issued a license to hunt deer by:~~

~~(A) firearms under IC 14-22-12-1(a)(12) or IC 14-22-12-1(a)(15) during the season established in subsection (b); or~~

~~(B) a muzzleloading gun or muzzleloading handgun under IC 14-22-12-1(a)(13) or IC 14-22-12-1(a)(16) during the season established in subsection (c);~~

~~(2) issued a:~~

~~(A) lifetime license under IC 14-22-12-7(a)(4) or IC 14-22-12-7(a)(5) before July 1, 2005, during the seasons established in subsections (b) and (c); or~~

~~(B) youth yearly consolidated hunting license under IC 14-22-11-10(b) or IC 14-22-12-1(a)(24); or~~

~~(3) hunting by the use of firearms under IC 14-22-11-1.~~

~~(b) The season for hunting deer with firearms is as follows:~~

~~(1) The firearms season using:~~

~~(A) shotgun;~~

~~(B) shotgun with rifled barrel;~~

~~(C) handgun;~~

~~(D) muzzleloading gun;~~

~~(E) muzzleloading handgun; or~~

~~(F) rifle, with the use of cartridges described in subsection (f)(4) only;~~

~~is from the first Saturday after November 11 and continues for an additional fifteen (15) days.~~
~~(2) The seasonal limit for hunting deer under this subsection is one (1) antlered deer.~~

~~(c) In addition to the season established under subsection (b), the season for using a muzzleloading gun or muzzleloading handgun only:~~
~~(1) extends from the first Saturday after the firearms season established under subsection (b); and~~
~~(2) continues for fifteen (15) additional days.~~
~~The seasonal limit for hunting deer under this extended season is one (1) deer of either sex.~~

~~(d) A person must not hunt deer except from one half (1/2) hour before sunrise to one half (1/2) hour after sunset.~~

~~(e) A person must not do the following:~~
~~(1) Hunt deer unless that person wears hunter orange.~~
~~(2) Possess bow and arrows while hunting under this section.~~

(a) During the youth special deer season established in section 4(b) of this rule, a youth hunter must hunt deer only with the following equipment:

- (1) A bow and arrow as described in subsection (b)(1) through (b)(5).**
- (2) A crossbow as described in subsection (b)(6) and (b)(7).**
- (3) A shotgun as described in subsection (d)(1).**
- (4) A muzzleloading long gun as described in subsection (d)(3).**
- (5) A rifle, with the use of cartridges described in subsection (d)(4).**

(b) During the archery season established in section 4(c) of this rule, an individual must hunt deer only with the following equipment:

- (1) A long bow or compound bow that has at least thirty-five (35) pounds pull.**
- (2) Arrows that are equipped with metal or metal-edged (or flint, chert, or obsidian napped) broadheads.**
- (3) Poisoned or explosive arrows are unlawful.**
- (4) Bows drawn, held, or released other than by hand or hand-held releases are unlawful.**
- (5) No portion of the bow's riser (handle) or any:**
 - (A) track;**
 - (B) trough;**
 - (C) channel;**
 - (D) arrow rest; or**
 - (E) other device;**

that attaches to the bow's riser shall contact, support, or guide the arrow from a point rearward of the bow's brace height.

(6) In addition to the equipment described in subdivisions (1) through (5), during the late archery season established in section 4(c)(2) of this rule, an individual may use a crossbow that has either of the following:

(A) At least one hundred twenty-five (125) pounds pull.

(B) A mechanical safety.

(7) As used in this section, "crossbow" means a device for propelling an arrow by means of traverse limbs mounted on a stock and a string and having a working safety. The crossbow may be drawn, held, and released by a mechanical device.

~~(f) A person~~ (c) During the firearms season established in section 4(e) of this rule, an individual must not hunt deer only with a firearm under this section except as follows: any of the following equipment:

(1) A shotgun.

(2) A shotgun with rifled barrel.

(3) A handgun.

(4) A muzzleloading long gun.

(5) A muzzleloading handgun.

(6) A rifle, with the use of cartridges described in subsection (d)(4) only.

(7) A bow and arrows described in subsection (b)(1) through (b)(5).

(d) As used in section 2 of this rule, this section, and sections 4 through 8 of this rule, a firearm must meet the following specifications:

(1) A shotgun ~~(A)~~ must have a gauge 10, 12, 16, 20, or .410 bore loaded with a single projectile. ~~and~~

~~(B) may be possessed in the field outside lawful shooting hours only if there are no shells in the chamber or magazine.~~

(2) A handgun must:

(A) conform to the requirements of IC 35-47-2;

(B) have a barrel at least four (4) inches long; ~~and~~

(C) fire a bullet of two hundred forty-three thousandths (.243) inch diameter or larger; ~~and~~

(D) not be a rifle that has a barrel less than eighteen (18) inches or is designed or redesigned to be fired from the shoulder.

~~All 38 special ammunition is prohibited.~~ The handgun cartridge case, without bullet, must be at least one and sixteen-hundredths (1.16) inches long. Full metal jacketed bullets are unlawful. All 25/20, 32/20, 30 carbine, and 38 special ammunition is prohibited.

(3) A muzzleloading **long** gun must be .44 caliber or larger, loaded with a bullet at least three hundred fifty-seven thousandths (.357) inch or larger. A muzzleloading handgun must be single shot, .50 caliber or larger, loaded with bullets at least .44 caliber and have a barrel at least twelve (12) inches long. The length of a muzzleloading handgun barrel is determined by measuring from the base of the breech plug, excluding tangs and other projections, to the end of the barrel, including the muzzle crown. A muzzleloading gun must be capable of being loaded only from the muzzle, including both powder and bullet. ~~A muzzleloading gun may be possessed in the field outside lawful shooting hours only if:~~

~~(A) for percussion firearms, the cap or primer is removed from the nipple or primer adapter; or~~

~~(B) for flintlock firearms, the pan is not primed.~~

(4) A rifle must **fire a cartridge that meets the following specifications:**

- (A) Fire a bullet of three hundred fifty-seven thousandths (.357) of an inch diameter or larger.
 - (B) Have a minimum case length of one and sixteen-hundredths (1.16) inches. ~~and~~
 - (C) Have a maximum case length of one and six hundred twenty-five thousandths (1.625) inches.
- (5) Over-and-under combination rifle-shotguns are prohibited.
- ~~(6) Notwithstanding subsection (f)(2), a person may possess a handgun in accordance with IC 35-47 while hunting deer under this section if the person:~~
- ~~(A) has a valid unlimited license to carry a handgun issued under IC 35-47-2-3;~~
 - ~~(B) has a valid unlimited license to carry a handgun recognized under IC 35-47-2-21(b); or~~
 - ~~(C) is not required to possess a license to carry a handgun under IC 35-47-2-2.~~

(e) During the muzzleloader season established in section 4(f) of this rule, an individual must hunt deer only with a:

- (1) muzzleloading long gun as described in subsection (d)(3);**
- (2) muzzleloading handgun as described in subsection (d)(3); or**
- (3) bow and arrows as described in subsection (b)(1) through (b)(7).**

(f) During the urban deer season established in section 4(d) of this rule, an individual must hunt deer only with bows and arrows described in section 4(b)(1) through 4(b)(5) of this rule during the early archery season established in section 4(c)(1) of this rule. During the urban deer season established in section 4(d) of this rule, an individual must hunt deer only with bows and arrows, including crossbows, described in subsection (b)(1) through (b)(7) during the late archery season described in subsection (c)(2).

(g) An individual must not erect, place, or hunt from a permanent tree blind on state owned lands. A tree blind placed on:

- (1) state owned or state leased lands;**
- (2) U.S. Forest Service lands; or**
- (3) any national wildlife refuge;**

must be portable and may be left overnight only between September 1 and January 10. A fastener used in conjunction with a tree blind and a tree or pole climber that penetrates a tree more than one-half (1/2) inch is prohibited. Each portable tree blind must be legibly marked with the name, address, and telephone number of the owner of the tree blind.

(h) An individual must not use infrared sensors to locate or take deer. An individual must not hunt or retrieve deer with the aid of an infrared detector.

(i) An individual must not possess or use an electronic deer call while hunting deer. *(Natural Resources Commission; 312 IAC 9-3-3; filed May 12, 1997, 10:00 a.m.: 20 IR 2703; filed Nov 13, 1997, 12:09 p.m.: 21 IR 1272; filed Dec 26, 2001, 2:40 p.m.: 25 IR 1530; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 538; filed Jun 23, 2006, 2:24 p.m.: 20060719-IR-312050214FRA; filed Jun*

29, 2007, 2:30 p.m.: 20070725-IR-312060272FRA; filed Sep 6, 2007, 12:20 p.m.:
20071003-IR-312070023FRA; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)

SECTION 3. 312 IAC 9-3-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-4 Season dates and bag limits

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22

Sec. 4. ~~(a) This section is supplemental to section 2 of this rule and governs the activities of an individual who is either:~~

~~(1) issued a license to hunt deer by bow and arrows under:~~

~~(A) IC 14-22-11-10(b);~~

~~(B) IC 14-22-12-1(a)(14);~~

~~(C) IC 14-22-12-1(a)(17);~~

~~(D) IC 14-22-12-1(a)(24);~~

~~(E) IC 14-22-12-7(a)(4); or~~

~~(F) IC 14-22-12-7(a)(5);~~

~~and is supplemental to section 2 of this rule; or~~

~~(2) hunting by the use of bow and arrows under IC 14-22-11-1.~~

~~(b) The season for hunting deer by bow and arrows during the:~~

~~(1) early bow season is from October 1 through the firearms season (set forth in section 3(b) of this rule); and~~

~~(2) late bow season from the first Saturday after the firearms season through the first Sunday in January.~~

~~(c) The urban deer season is:~~

~~(1) from September 15 through the firearms season (set forth in section 3(b) of this rule); and~~

~~(2) during the late bow season from the first Saturday after the firearms season through the first Sunday in January.~~

~~(d) The seasonal limit for hunting under this section is one (1) deer of either sex.~~

~~After August 31, 2012, a person must not take an antlered deer by means of a crossbow.~~

~~(e) A person must not hunt deer under this section as follows:~~

~~(1) Except from one half (1/2) hour before sunrise to one half (1/2) hour after sunset.~~

~~(2) Unless that person wears hunter orange. However, this subdivision does not apply:~~

~~(A) before the commencement of the firearms season set forth in section 3(b) of this rule; and~~

~~(B) after the muzzleloading gun season set forth in section 3(c) of this rule.~~

~~(3) Unless that person possesses only one (1) bow. A person must not possess a firearm while hunting under this section.~~

~~(4) Except as follows:~~

- ~~(A) No person shall use a long bow or compound bow of less than thirty-five (35) pounds pull.~~
 - ~~(B) Arrows must be equipped with metal or metal edged (or flint, chert, or obsidian napped) broadheads.~~
 - ~~(C) Poisoned or explosive arrows are unlawful.~~
 - ~~(D) Bows drawn, held, or released other than by hand or hand-held releases are unlawful.~~
 - ~~(E) A long bow or compound bow may be possessed in the field before and after lawful shooting hours only if the nock of the arrow is not placed on the bow string.~~
 - ~~(F) No portion of the bow's riser (handle) or any:~~
 - ~~(i) track;~~
 - ~~(ii) trough;~~
 - ~~(iii) channel;~~
 - ~~(iv) arrow rest; or~~
 - ~~(v) other device;~~
- ~~that attaches to the bow's riser shall contact, support, or guide the arrow from a point rearward of the bow's brace height.~~

~~(f) Notwithstanding subsection (e)(4), a person may use a crossbow to take a deer of either sex during the late bow season from the first Saturday after the firearms season through the first Sunday in January if the following restrictions are met:~~

- ~~(1) No person shall use a crossbow:~~
 - ~~(A) of less than one hundred twenty-five (125) pounds pull; or~~
 - ~~(B) that does not have a mechanical safety.~~
- ~~(2) A crossbow may be possessed in the field before and after lawful shooting hours only if the nock of the arrow is not placed on the bow string.~~

~~(g) As used in this rule, "crossbow" means a device for propelling an arrow by means of traverse limbs mounted on a stock and a string and having a working safety. The crossbow may be drawn, held, and released by a mechanical device.~~

~~(h) Notwithstanding subsection (e)(3), a person may possess a handgun in accordance with IC 35-47 while hunting deer under this section if the person:~~

- ~~(1) has a valid unlimited license to carry a handgun issued under IC 35-47-2-3;~~
- ~~(2) has a valid unlimited license to carry a handgun recognized under IC 35-47-2-21(b);~~
- ~~or~~
- ~~(3) is not required to possess a license to carry a handgun under IC 35-47-2-2.~~

(a) An individual must not take more than one (1) deer with each deer license.

(b) The special youth deer season is two (2) consecutive days beginning on the Saturday immediately before October 1 or as approved annually by the director.

(1) The seasonal limit for hunting deer under this subsection is one (1) antlerless deer.

(2) As used in this section, "youth" means an individual who is less than eighteen (18) years of age by the date of the hunt.

(3) A youth who hunts a deer under this subsection must be accompanied by an adult of at least eighteen (18) years of age who:

- (A) does not possess a firearm, bow and arrow, or crossbow while in the field;**
- (B) possesses a valid hunting license of any type that is not an apprentice license;**
- (C) must not accompany more than two (2) youth hunters at any one (1) time; and**
- (D) must be in close proximity and able to communicate with the youth hunter at all times.**

(c) The archery deer season is as follows:

- (1) Early archery season is from October 1 through the closing day of firearms season as established in subsection (e).**
- (2) Late archery season from the first Saturday after the closing day of firearms season as established in subsection (e) through the first Sunday in January.**
- (3) An individual must take not more than two (2) deer of which only one (1) may be antlered under this subsection.**
- (4) After August 31, 2012, an individual must not take an antlered deer by means of a crossbow.**

(d) The urban deer season is as follows:

- (1) From September 15 through the closing day of firearms season as established in subsection (e).**
- (2) During the late archery season as established in subsection (c)(2).**
- (3) An individual must take not more than four (4) deer of which only one (1) may be antlered under this subsection.**
- (4) A deer taken under this subsection does not count against a bag limit for deer set elsewhere in this rule.**
- (5) The following areas have been designated as urban deer zones subject to the urban deer season:**

(A) The Indianapolis urban deer zone includes the following:

- (i) All of Marion County.**
- (ii) That portion of Hendricks County east of State Highway 267.**
- (iii) The southeast portion of Boone County as bounded by the following:**
 - (AA) State Highway 267.**
 - (BB) Interstate Highway 65.**
 - (CC) State Highway 32.**
- (iv) That portion of Hamilton County south of State Highway 32.**

(B) The Fort Wayne urban deer zone includes that portion of Allen County lying within the bounds of Interstate Highway 69 and State Highway 469.

(C) The Evansville urban deer zone includes all of Vanderburgh County.

(D) The Lafayette urban deer zone includes the portion of Tippecanoe County north of State Highway 28.

(E) The Gary urban deer zone includes that portion of Lake County north of U.S. Highway 30.

(F) The Crown Point urban deer zone includes that portion of Lake County within the corporate limits of Crown Point.

(G) The Chesterton urban deer zone includes the portion of Porter County north of U.S. Highway 94.

(H) The Michigan City urban deer zone includes that portion of LaPorte County north of U.S. Highway 94.

(I) The Warsaw urban deer zone includes the portion of Kosciusko County within the corporate limits of the city of Warsaw.

(e) The firearms deer season is from the first Saturday after November 11 and continues for an additional fifteen (15) days. An individual must take not more than one (1) antlered deer under this subsection.

(f) The deer hunting season for only using a muzzleloading long gun or muzzleloading handgun is from the first Saturday after the closing day of firearms season as established in subsection (e) and continues for an additional fifteen (15) days. An individual must not take more than one (1) deer of either sex under this subsection.

(g) The season and bag limit for hunting antlerless deer in a designated county, by authority of an extra deer bonus antlerless license, shall be established on an annual basis by a temporary rule authorized by the director. *(Natural Resources Commission; 312 IAC 9-3-4; filed May 12, 1997, 10:00 a.m.: 20 IR 2703; filed Nov 5, 1997, 3:25 p.m.: 21 IR 930; filed Dec 26, 2001, 2:40 p.m.: 25 IR 1530; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 538; filed May 25, 2005, 10:15 a.m.: 28 IR 2945; filed Jun 29, 2007, 2:30 p.m.: 20070725-IR-312060272FRA; filed Jul 10, 2007, 2:09 p.m.: 20070808-IR-312060572FRA; filed Sep 6, 2007, 12:20 p.m.: 20071003-IR-312070023FRA; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)*

SECTION 4. 312 IAC 9-3-8 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-8 Hunting deer on designated military reserves and national wildlife refuges with additional deer hunting licenses

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22-11-10; IC 14-22-12

Sec. 8. (a) This section governs the activities of an individual who is hunting deer on ~~each of the following~~ military reserves and **national** wildlife refuges.

~~(1) Naval Weapons Support Center Crane.~~

~~(2) Big Oaks National Wildlife Refuge.~~

~~(3) Atterbury Reserve Forces Training Area.~~

~~(4) Indiana Army Ammunition Plant (Charlestown).~~

~~(5) Newport Army Ammunition Plant.~~

~~(6) Muscatatuck National Wildlife Refuge.~~

~~(7) Leiber State Recreation Area (holders of handicap permits under 312 IAC 9-10-10 only).~~

(b) ~~The season for hunting~~ **If selected by drawing or invitation, an individual may hunt deer under this section by firearms is on a military reserve or national wildlife refuge from November October 1 through December 31. The specific hunting dates and equipment will be determined annually by the department in conjunction with the management staff of the military reserve or national wildlife refuge.**

~~(c) The season for hunting deer under this section by bow and arrows is from October 1 through December 31.~~

~~(d) Except as provided under subsections (b) through (c), a person who hunts by the authority of a firearms license issued under section 3 of this rule or bow and arrows license under section 4 or 5 of this rule is also subject to those sections.~~

~~(e) An individual may enter a drawing to hunt deer on the military reserves or on Big Oaks National Wildlife Reserve or Muscatatuck National Wildlife Refuge. If selected in the drawing, that individual may apply for:~~

~~(1) an extra firearms military or refuge deer license;~~

~~(2) an extra deer muzzle loader military or refuge license; or~~

~~(3) an extra deer archery military or refuge license;~~

~~to hunt during the seasons established under subsections (b) through (c).~~

(c) An individual must use equipment authorized under section 3 of this rule to take a deer under this section.

(d) An individual may take a deer on a military reserve or national wildlife refuge only if issued one (1) of the following licenses:

(1) A resident deer archery license under IC 14-22-11-10(a) or IC 14-22-12-1(a)(14).

(2) A nonresident deer archery license under IC 14-22-12-1(a)(17).

(3) A resident deer firearms license under IC 14-22-11-10(a) or IC 14-22-12-1(a)(12).

(4) A nonresident deer firearms license under IC 14-22-12-1(a)(15).

(5) A resident deer muzzleloader license under IC 14-22-11-10(a) or IC 14-22-12-1(a)(13).

(6) A nonresident deer muzzleloader license under IC 14-22-12-1(a)(16).

(7) A resident extra deer license under IC 14-22-12-1(a)(18).

(8) A nonresident extra deer license under IC 14-22-12-1(a)(19).

(9) An apprentice license of the types identified in subdivisions (1) through (8) under IC 14-22-12-1.7.

(10) A lifetime comprehensive hunting license under IC 14-22-12-7(a)(4).

(11) A lifetime comprehensive hunting and fishing license under IC 14-22-12-7(a)(5).

(e) **An individual must comply with the season dates and bag limit for deer hunting as established in section 4 of this rule if using one (1) of the following licenses to hunt on a military reserve or national wildlife refuge:**
 (1) **A resident deer archery license under IC 14-22-11-10(a) or IC 14-22-12-1(a)(14).**
 (2) **A nonresident deer archery license under IC 14-22-12-1(a)(17).**
 (3) **A resident deer firearms license under IC 14-22-11-10(a) or IC 14-22-12-1(a)(12).**
 (4) **A nonresident deer firearms license under IC 14-22-12-1(a)(15).**
 (5) **A resident deer muzzleloader license under IC 14-22-11-10(a) or IC 14-22-12-1(a)(13).**
 (6) **A nonresident deer muzzleloader license under IC 14-22-12-1(a)(16).**
 (7) **An apprentice license of the types identified in subdivisions (1) through (6) under IC 14-22-12-1.**

(f) ~~Except as provided in subsection (g), the seasonal bag limit for hunting under this section is~~ **An individual may take one (1) deer of either sex for each extra deer military/refuge license whether that license is issued under subsection (d) or (e): on a military reserve or national wildlife refuge.** An antlered deer taken under this section is exempted from the limitations placed on the taking of antlered deer set forth in **section 2** of this rule.

(g) In addition to the other licenses authorized by this section, the division may issue an extra deer **military/refuge** license under this subsection. This extra deer **military/refuge** license authorizes the taking ~~by bow and arrows~~ of a deer of either sex **only** from a site listed in subsection (a). ~~This subsection is governed by IC 14-22-12-1(18) and IC 14-22-12-1(19).~~ **military reserve or national wildlife refuge.**

(h) **An individual must comply with all of the provisions in section 2 of this rule which governs the use of tags, generally, also applies to extra deer tags military/refuge licenses under this section. with the exception of subsections (a), (b), and (e) through (j).** *(Natural Resources Commission; 312 IAC 9-3-8; filed May 12, 1997, 10:00 a.m.: 20 IR 2705; filed Dec 26, 2001, 2:40 p.m.: 25 IR 1532; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)*

SECTION 5. 312 IAC 9-3-9 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-9 Deer killed by other means; disposition
 Authority: IC 14-10-2-4; IC 14-22-2-6
 Affected: IC 14-22

Sec. 9. (a) If a deer dies following a collision with a motor vehicle:

- (1) a conservation officer;
- (2) another law enforcement officer;
- (3) **a district wildlife biologist for the department;** or
- (4) a property manager or assistant property manager for the department;

may issue a departmental permit to an individual to possess the carcass of the deer. ~~for not more than sixty (60) days.~~

(b) If a deer is found dead:

(1) a conservation officer;

(2) a district wildlife biologist for the department;

(3) a property manager or assistant property manager for the department; or a person

(4) an individual designated by the conservation officer;

may issue a departmental permit to possess the deer. (*Natural Resources Commission; 312 IAC 9-3-9; filed May 12, 1997, 10:00 a.m.: 20 IR 2706; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA*)

SECTION 6. 312 IAC 9-12-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-12-2 Mandatory hunter education for an individual born after December 31, 1986

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22

Sec. 2. (a) In addition to the requirements for obtaining a hunting license under IC 14-22-11, an individual born after December 31, 1986, must have successfully completed a course in hunter education by the department or the department's agent under IC 14-22-35-1 and this rule.

(b) As used in subsection (a), "department's agent" includes a person approved to administer a hunter education program in Indiana, as well as a program found by the director to provide hunter education substantially equivalent to an approved Indiana program in any of the following:

(1) Another state.

(2) A province of Canada.

(3) Another country.

(c) An individual born after December 31, 1986, is exempt from the requirements in subsection (a) if the individual:

(1) purchases an apprentice hunting license authorized under IC 14-22-12-1.7;

(2) otherwise complies with the requirements under this article; and

(3) is accompanied by an individual who is at least eighteen (18) years of age that either:

(A) holds a valid hunting license of any type that is not an apprentice license; or

(B) is not required to have a hunting license under IC 14-22-11 and 312 IAC 9-2-14.

(Natural Resources Commission; 312 IAC 9-12-2; filed May 27, 1997, 3:50 p.m.: 20 IR 2758; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)

SECTION 7. 312 IAC 9-12-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-12-3 Demonstration of compliance with hunter education requirements

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 4-21.5; IC 14-22-11-3; IC 14-22-12-1.7

Sec. 3. (a) An agent duly appointed by the director under IC 14-22-11-3, or a clerk of a county circuit court, must not issue a hunting license to an individual subject to section 2 of this rule unless the individual:

- (1) demonstrates compliance with ~~subsection (b)~~ **section 2 of this rule**; or
- (2) **purchases an apprentice hunting license under IC 14-22-12-1.7.**

(b) An individual subject to section 2 of this rule may demonstrate successful completion of a hunter education program by any one (1) of the following methods:

- (1) The presentation of a certificate of completion that indicates a hunter education program offered by the department or the department's agent was successfully completed by the applicant. A certificate of completion shall be completed on a department form.
- (2) For ~~a person~~ **an individual** less than twelve (12) years of age upon completion of attendance at a hunter education course, the presentation of a certificate of attendance that indicates a hunter education program offered by the department or the department's agent has been monitored by the applicant. A license issued under this subdivision authorizes an applicant to hunt only if the applicant is accompanied by a parent or guardian. A certificate of attendance shall be prepared on a department form.
- (3) A statement made under oath or affirmation by the applicant, on a department form, stating the applicant successfully completed a hunter education program approved under section 2 of this rule.
- (4) A properly completed hunting license issued previously to the applicant.
- (5) A final order from the commission under IC 4-21.5 and 312 IAC 3 stating the applicant is entitled to receive a hunting license. *(Natural Resources Commission; 312 IAC 9-12-3; filed May 27, 1997, 3:50 p.m.: 20 IR 2758; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)*

SECTION 8. THE FOLLOWING ARE REPEALED: 312 IAC 9-3-2.5; 312 IAC 9-3-5; 312 IAC 9-3-6; 312 IAC 9-3-7.

“Exhibit B”

SECTION 4. 312 IAC 9-3-8 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-8 Hunting deer on designated military reserves and national wildlife refuges with additional deer hunting licenses

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22-11-10; IC 14-22-12

.....

(b) ~~The season for hunting~~ **If selected by drawing or invitation, an individual may hunt deer under this section by firearms on a military reserve or national wildlife refuge as follows:**

(1) by firearms from **November** 1 through December 31.

(2) by bow and arrows from October 1 through December 31.

The specific hunting dates and equipment will be determined annually by the department in conjunction with the management staff of the military reserve or national wildlife refuge.

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